IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Tr.P(Crl.).No. 74 of 2007()

CC.149/2003 of J.M.F.C.,TALIPARAMBA

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PETITIONER: ACCUSED

SAMBASIVA REDDY, S/O.LAKSHMANA REDDY,
MANAGING DIRECTOR, SARAVANA CONSTRUCTION PVT.LTD.,
DEFENCE COLONY, MILITARY HOSPITAL,
EKKATTUTHANGAL, CHENNAI-97.

BY ADV. SMT.K.V.RESHMI

RESPONDENTS:

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1. T.M.MATHACHAN,S/O MICHAEL,
MANAGING DIRECTOR, THULUVANICKAL PIPES PVT.LTD.,
THALIPARAMBA, KANNUR REP.BY HIS POWER OF ATTORNEY
HOLDER, T.M.SUBI, S/O.MICHEAL, KARIMBAM,
KARIMBAM P.O., THALIPARAMBA.

2. THE S.I. OF POLICE,
TALIPARAMBA POLICE STATION,
KANNUR DISTRICT.

3. THE STATE OF KERALA REP.BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

4. T.M.SUBI,
S/O MICHEAL, KARIMBAM, KARIMBAM P.O.,
THALIPARAMBA.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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T.P.Crl. No.74 Of 2007

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Dated this the 27th day of September, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instrument Act. The petitioner had entered appearance and was enlarged on bail. But consequent to non-appearance of the petitioner on one date of posting, a warrant of arrest has been issued against him by the learned Magistrate. The petitioner sought anticipatory bail from the High Court of Judicature, Madras and anticipatory bail had been granted in favour of the petitioner, subject to conditions. The petitioner was obliged to appear before the learned Magistrate within the time stipulated in the said order of anticipatory bail. That period has now elapsed.

2. It is at this juncture that the petitioner has chosen to come to this Court with the transfer petition. He prays that the case may be transferred to any other court outside the Sessions Division of Thalassery.

3. What is the reason? The learned counsel for the petitioner submits that though the petitioner has been appearing before the Court from 2003- when the case was registered, on the last date of posting, on which date a warrant of arrest was issued against him, he

was threatened by the power of attorney holder of the complainant making his entry into the court impossible. Amounts were demanded and as the petitioner could not comply with the demand he was not permitted to enter the Court and make his appearance. That is why the warrant of arrest has been issued against the petitioner. The petitioner has filed a petition before the Inspector of Police, Thaliparamba Police Station dated 8.9.07 also. In these circumstances it is prayed that the case may be transferred to any other court outside the sessions division of Thalassery.

4. I find absolutely no merit in the prayer for transfer. The petitioner has been appearing before the Court at Thaliparamba all the while. It is at the point of time when the matter came up for trial, the petitioner has come to this Court with the transfer petition. There is certainly no reason to justify the prayer for transfer.

5. It is for the petitioner to appear and seek regular bail. It is for him to participate in the trial and facilitate an expeditious disposal of the case against him. If he is unable to be personally present, he can certainly seek exemption from personal appearance after he is enlarged on bail. I have no reason to assume that the learned Magistrate would not consider his plea for exemption on merits, in accordance with law and expeditiously. I am satisfied that this petition

only deserves to be dismissed. It is accordingly dismissed but It is directed that the warrant of arrest issued by the learned Magistrate shall not be executed till 10.10.07, by which date the petitioner shall appear before the learned Magistrate and seek regular bail.

This transfer petition is consequently dismissed but subject to the above observations.

(R.BASANT, JUDGE)

sj